REMARKS

Claims 1-61 are currently pending in the present application. Claims 1, 5, 11, 12, 18-21, 23, 28, 31, 36-38, 40, 48, 50, and 51 have been amended. No new claims have been added. No claims have been canceled or withdrawn.

Applicants have carefully studied the outstanding Office Action. The present Response is intended to be fully responsive to all points of rejection raised by the Examiner and is believed to place the application in condition for allowance. Favorable reconsideration and allowance of this application is respectfully requested. Applicants respectfully request reconsideration and withdrawal of the Examiner's rejections in view of the foregoing amendments and following remarks.

Claim Rejections - 35 USC § 112, second paragraph

Claims 21 and 40

The Examiner has rejected claims 21 and 40 under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. The Examiner states:

> Claim 21 recites, "said database is queried." Database lacks antecedent basis in claim 21 or its parent claim, claim 20.
>
> Claim 40 recites, "a talent seeker may query said category for said demographic information." It is unclear, when read in light of the specification, how a talent seeker can query a category, which according to the parent claim determines what instructions are given to the studio user (see Claim 38, lines 6-7), and receive demographic information in return.

Response:

The claims have been amended. The rejections are believed to be moot in view of amendment.

Claim Rejections - 35 USC § 102(b)

The Examiner has rejected claims 20-21 and 30-31 under 35 USC § 102(b) as being anticipated by Hohenacker (WIPO Pub. No. WO/2002/080519 A2) (hereinafter "Hohenacker").

Claim 20

The Examiner states:

> As to claim 20, Hohenacker a method for placing a performance of a studio user on a studio site, said method comprising the steps of:
>
> providing a studio in a public location wherein said studio comprises an audio and video recording capability ([0005], publicly accessible studio including camera and microphone [0074]);
>
> registering to recording a performance to a studio user in said studio onto a studio server, wherein said registering comprises selecting a category ([0079], a category (e.g. sing a song, quiz, etc.) is selected which determines how the recording session will precede);
>
> automatically providing instructions to said studio user for making a recorded performance based upon said category ([0079], instructions will be dependent on the category; e.g. a quiz will have different requirements than singing a song);
>
> creating said recorded performance ([0063]); and
>
> making said recorded performance accessible via streaming servers from a studio site maintained by a studio operator ([0093]).

Response:

Applicants thank the Examiner for the thorough examination. In the interests of prosecutorial efficiency, Applicants have amended the claims and the claims are believed to be novel in view of the amendments.

Support for the registration center being outside the enclosed studio can be found in paragraphs 40 and 42 and with reference to numeral 220 in Figure 2.

Support for making an unrecorded practice run can be found in paragraphs 42 and 51.

Support for the raw voice limitation can be found in paragraph 51.

In view of the amendments, Applicants submit that claim 20 and the dependent claims are novel and unobvious over the prior art.

Claim 21

Regarding claim 21, the Examiner states:

> As to claim 21, Hohenacker discloses wherein said database is queried for specific information prior to accessing said recorded performance ([0029]-[0030]).

Response:

Claim 21 has been amended. Support can be found in paragraph 36, which discloses "recordings are categorized based on its subject matter classification." Applicants submit that this is different from a "user data" disclosed by the prior art. In view of the clarification above, Applicants respectfully request the Examiner withdraw the rejection.

Claims 30 and 31

The Examiner states:

> As to claim 30, Hohenacker discloses said studio user agrees to an exclusive agency contract with a studio operator ([0081]).
>
> As to claim 31, Hohenacker discloses said recorded performance consists only of a voice of said studio user ([0019]).

Response:

Regarding claim 31, Applicants have amended the claim and the amendment is supported by paragraph 51 of the instant published patent application. Paragraph 19 of Hohenacker discloses:

> [0019] Alternatively or additionally, audio data can be recorded via a sound recording system installed at the scene. Surrounding sound can hereby be picked up and thus the atmosphere of the scene be captured.

The present invention, on the other hand, excludes the surrounding atmosphere by using headphones to provide music, directions, and/or a soundproof enclosed stereo. Chu has speakers inside its booth and so it also teaches away from the claimed invention. In view of the clarification above, Applicants respectfully request the Examiner withdraw the rejection.

Claim Rejections - 35 USC § 103

The Examiner has rejected claims 24-25, 32-33, and 35-37 under 35 USC § 103(a) as being unpatentable over Hohenacker as applied to claim 20 in view of Chacker (U.S. Patent No. 6,578,008) (hereinafter "Chacker").

Claims 24-25

The Examiner states:

As to claim 24 Hohenacker does not disclose a viewer purchases said recorded performance from a studio operator.

However, Chacker discloses a view purchasing an uploaded recorded performance from a studio operator (column 6, lines 63-65 and column 12, lines 48-53).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker and Chacker in order for the studio to use the acquired recorded performances to earn a profit.

As to claim 25, Hohenacker does not disclose at least one information seeker bids to enter into contract negotiations with said studio user.

However, Chacker discloses an information seeker bids to enter into contract negotiations with an uploading artist (column 7, lines 8-25).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker and Chacker in order recruit talent (Chacker, column 4, lines 23-26).

Response:

Regarding claim 25, Applicants submit that it is one thing for an entity to recruit talent and quite another to provide a service to a studio user whereby there is a competitive bid to enter into contract negotiations. Chacker teaches "pre-selecting" artists to enter into an "investment simulation game" to be voted on by the public. The artists are then awarded a contract on the basis of the public's decision rather than the information seeker's decision to place a competitive bid. There is no "bidding" disclosed or taught by Chacker. Rather it's selection by party A to be offered a contract by Party B. The claimed invention requires the same party to make the offer and contract through a competitive bid. In view of the clarification above, Applicants respectfully request the Examiner withdraw the rejection.

Claim 32-33

The Examiner states:

As to claim 32, Hohenacker does not disclose a menu on said studio site lists subject matter and pre-determined main categories and subcategories.

However, Chacker discloses a menu on a studio site lists subject matter and pre-determined main categories and sub-categories (column 10, lines 30-35).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker and Chacker in order to create a user friendly interface by making the recorded performances more accessible.

As to claim 33, Hohenacker does not disclose a menu on said studio site allows user created categories and sub-categories.

However, Chacker discloses a menu on a studio site allows user created categories and sub-categories (column 10, lines 30-35).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker and Chacker in order to create a user friendly interface by making the recorded performances more accessible.

Response:

Regarding claim 33, Applicants respectfully submit the Examiner is conflating a studio user or performer with an information seeker. Chacker discloses a consuming public selecting a pre-determined category. For example, at column 10, lines 30-35, Chacker discloses:

> The music collection spans dozens of categorized genres, including pop, rock, classical, country, alternative, children's, easy listening, electronic, hip hop, rap, blues, jazz, international. Those music categories are searchable by genre, artists or location.

These are not user-created categories, but "pre-determined" categories. Paragraph 33 of the present invention, on the other hand, teaches:

> Moreover, if a pre-determined sub-category failed to define the subject matter of the recording, the studio user could create a user-defined category 155 and/or sub-category.

Applicants also direct Examiner to Figure 1b of the present invention. Consequently, unlike Chacker, the present invention permits a performer to select a category not pre-determined, such as "angel/investors" as a category and something like "oil and gas" as a sub-category. Chacker fails to teach or suggest limitations providing such flexibility. In view of the clarification above, Applicants respectfully request the Examiner withdraw the rejection.

Claims 35-37

The Examiner states:

> As to claim 35, Hohenacker does not disclose said site further comprises a ratings means for enabling a viewer to rate said recorded performance wherein further said ratings means prohibits said viewer from rating said recorded performance more than once.
>
> However, Chacker discloses a ratings means for enabling a viewer to rate a recorded performance and preventing said viewer from compromising the ratings (column 7, lines 19-25, viewers trade stocks, effectively rating artists; viewers are giving a finite amount of resources to trade with).
>
> Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker and Chacker in order to allow direct user input which can then translate into popularity and marketing potential of prospective artists.
>
> As to claims 36, Hohenacker and Chacker disclose the invention substantially with regard to the parent claim, and further disclose an information seeker is electronically notified when ratings from one or more viewers exceeds a pre-determined ratings threshold (Chacker, column 13, lines 23-28).
>
> As to claims 37, Hohenacker and Chacker disclose the invention substantially with regard to the parent claim, and further disclose a studio operator is electronically notified when ratings from said viewers exceeds a predetermined ratings threshold (Chacker, column 13, lines 23-28).

Response:

Regarding claims 36 and 37, the cited section of Chacker discloses a ranking that must be checked manually. The claims have been amended to better delineate the intended metes and bounds of the claimed invention. The amendments are supported by paragraphs 65 and 66 of the instant published patent application. In view of the clarification above, Applicants respectfully request the Examiner withdraw the rejection.

Claims 22, 29, and 34

The Examiner has rejected claims 22, 29, and 34 under 35 USC § 103(a) as being unpatentable over Hohenacker as applied to claim 20 in further view of what was well known in the art. The Examiner states:

> As to claim 22, Hohenacker does not explicitly disclose parental consent is provided by said studio user prior to making said recorded performance accessible. However, Official Notice is taken that it was well known in the art to first have the parental consent of minors prior to distribution of any their recorded performance, as it is usually required by law. Therefore it would have been obvious to incorporate this feature into Hohenacker's system so as to allow minors to fully utilize all the features and comply with known laws.
>
> As to claim 29, Hohenacker does not disclose said audio and video recorder enables said studio user to transmit only one recording from at least two performances recorded by said studio user in said studio.
>
> However, allowing a user to make multiple recordings and uploading only one of those recording to a remote site would have been an obvious modification to one of ordinary skill in the art given the teachings of Hohenacker. Specifically, it is a common practice in the art to review, and if necessary rerecord poor performances, and only utilize one of the recordings. Therefore, Official Notice (see **MPEP** 2144.03) is taken that practice was well known in the art and is implemented in order allow the user to make errors and correct those errors.
>
> As to claim 34, Hohenacker does not disclose video conferencing between at least two studio users in at least two studios. However, Official Notice is taken that it was well known in the art to teleconference between two separate video studios. Therefore, given the teachings of Hohenacker's geographically separate studios connected to the Internet, it would have been obvious to one of ordinary skill in the art at the time of the invention allow video conferencing between those studios thereby creating broader appeal to the general public.

Response:

If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In Re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); MPEP 2143.03. Because the independent claim(s) are nonobvious for reasons discussed above, the

dependent claims are necessarily nonobvious. Consequently, Applicants respectfully request the Examiner withdraw the rejection(s).

Claims 23, 27, 28, 38-40, 43, 44, 46-47, and 49

The Examiner has rejected claims 23, 27, 28, 38-40, 43, 44, 46-47, and 49 under 35 USC § 103(a) as being unpatentable over Hohenacker in view of Chu, et al. (U.S. Patent No. 6,086,380) (hereinafter "Chu").

Claim 38

The Examiner states:

> As to claim 38, Hohenacker discloses a method of recruiting talent comprising:
>
> providing an studio in a public place for at least one studio user to record a performance ([0005], publicly accessible studio including camera and microphone [0074]);
>
> registering to recording said performance in said studio on a studio server, wherein said registering comprises selecting a category ([0079], a category (e.g. sing a song, quiz, etc.) is selected which determines how the recording session will precede);
>
> automatically providing instructions to said studio user for making a recorded performance based upon said category ([0079], instructions will be dependent on the category; e.g. a quiz will have different requirements than singing a song);
>
> making a recorded performance ([0063]);
>
> transmitting said recorded performance to an information seeker ([0093]).
>
> But, Hohenacker does not explicitly disclose the studio is both enclosed and in a public place, which provides for a private recorded performance.
>
> However, Chu discloses a recording studio that is both enclosed and in a public place, which provides for a private recorded performance (Fig. 1 and column 2, lines 39-48).
>
> Therefore it would have been obvious at the time of the invention to combine the teachings of Hohenacker and Chu in order to provide for privacy when giving a recorded performance thus improving the overall user experience.

Response:

Claim 38 has been amended. Support for limitations that the instructions are provided by an image on a video screen coupled with audio as well as support for recording the raw voice of a studio user can be found in paragraph 51 of the instant published patent application.

Claim 23

The Examiner states:

> As to claim 23, Hohenacker discloses the parent claim 20 but may not explicitly discloses a professional media kit is produced from said input information and said recorded performance.
>
> However, Chu discloses a professional media kit is produced from said input information and said recorded performance (column 16, lines 25-39, CD or VCR is made at the conclusion of the performance).
>
> Therefore it would have been obvious at the time of the invention to combine the teachings of Hohenacker and Chu in order to increase revenue generation by provided a physical product to sell, e.g. CDs.

Response:

Claim 23 has been amended. Support for the amendment to claim 23 can be found in paragraphs 34 and 40 of the instant published patent application. For example, paragraph 34 indicates that "A professional media kit 192 could be produced using recorded images or information input during registration." Paragraph 40 indicates that "Information input during registration could include physical attributes of the art . . ." Chu fails to teach or suggest the invention as claimed. In view of the above, Applicants respectfully request the Examiner withdraw the rejection because it fails to teach or suggest a professional media kit that comprises demographic information.

Claims 27-28, 39, 40

The Examiner states:

> As to claims 27-28, Hohenacker discloses the parent claim 20 but does not explicitly disclose said recorded performance is made using a Karaoke-style database where a studio user simultaneously views said recorded performance.

> However, Chu discloses said recorded performance is made using a Karaoke-style database where a studio user simultaneously views said recorded performance (Abstract, Fig. 1).
>
> Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker and Chu in order to appeal to a larger audience, specifically those interested in Karaoke.
>
> As to claim 39, Hohenacker discloses said studio user further provides demographic information ([0030]).
>
> As to claim 40, Hohenacker discloses a talent seeker may query said category for said demographic information ([0030]).

Response:

Claim 40 has been amended. Support can be found in paragraph 36, which discloses "recordings are categorized based on its subject matter classification." Applicants submit that this is different from a "user data" disclosed by the prior art. In view of the clarification above, Applicants respectfully request the Examiner withdraw the rejection.

Claims 43-44

The Examiner states:

> As to claim 43, Hohenacker discloses said demographic information is transmitted to a talent seeker ([0030]).
>
> As to claim 44, Hohenacker discloses a professional media kit is produced from said input information and said recorded performance ([0046]).

Response:

Applicants respectfully request the Examiner point out the portion of Hohenacker that teaches the limitation of a "professional media kit" that comprises "said demographic information," or withdraw the rejection. In view of the above, Applicants respectfully request the Examiner withdraw the rejection.

Claims 46-47, 49

The Examiner states:

> As to claim 46, Chu discloses said recording is achieved with a Karaoke-style database whereby music is transmitted through at least one speaker inside said studio and words are displayed on a video/teleprompter screen (Abstract, Fig. 1).
>
> As to claim 47, Hohenacker discloses said recording is achieved in an interview fashion whereby questions are transmitted through at least one speaker ([0008]).
>
> As to claim 49, Hohenacker discloses said information seeker at further views said recorded performance from an internet connection ([0040]).

Response:

If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In Re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); MPEP 2143.03. Because the independent claim(s) are nonobvious for reasons discussed above, the dependent claims are necessarily nonobvious. Consequently, Applicants respectfully request the Examiner withdraw the rejection(s).

Claim 26

The Examiner has rejected claim 26 under 35 USC § 103(a) as being unpatentable over Hohenacker as applied to claim 20, in view of Foroutan, (U.S. Patent No. 7,162,433) (hereinafter "Foroutan"). The Examiner states:

> As to claim 26, Hohenacker discloses the parent claim 20, but does not explicitly disclose said recorded performance is reviewed by a personal coach.
>
> However, Foroutan discloses said recorded performance is reviewed by a personal coach (column 18, lines 18-32).
>
> Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker and Foroutan in order to allow industry experts to review and provide feedback to aspiring talent so as to improve the overall user experience.

Response:

If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In Re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); MPEP 2143.03. Because the independent claim(s) are nonobvious for reasons discussed above, the dependent claims are necessarily nonobvious. Consequently, Applicants respectfully request the Examiner withdraw the rejection(s).

Claims 41-42 and 61

The Examiner has rejected claims 41-42 and 61 under 35 USC § 103(a) as being unpatentable over Hohenacker in view of Chu, as applied to claim 38, in view of what is well known in the art. The Examiner states:

> As to claims 41 and 42, Hohenacker and Chu do not disclose said studio user or a talent seeker pays a subscription to provide said demographic information.
>
> However, charging a subscription fee for desired data that has been acquired is a common practice in the art. Therefore, Official Notice (see MPEP 2144.03) is taken that it would have been an obvious modification to one of ordinary skill in the art at the time of the invention to charge subscription fees to users wishing to access the data acquired by the remote studios.
>
> As to claim 61, Hohenacker and Chu do not disclose video conferencing between at least two studio users in at least two studios. However, Official Notice is taken that it was well known in the art to teleconference between two separate studios. Therefore, given the teachings of Hohenacker's geographically separate studios, it would have been obvious to one of ordinary skill in the art at the time of the invention allow video conferencing between those studios thereby creating broader appeal to the general public.

Response:

If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In Re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); MPEP 2143.03. Because the independent claim(s) are nonobvious for reasons discussed above, the dependent claims are necessarily nonobvious. Consequently, Applicants respectfully request the Examiner withdraw the rejection(s).

Claims 48 and 50

The Examiner has rejected claims 48 and 50 under 35 USC § 103(a) as being unpatentable over Hohenacker in view of Chu, as applied to claim 38, in view of Chacker. The Examiner states:

> As to claim 48 **[Applicants believe Examiner mistakenly referred to claim 48 and the rejection is to claim 50 and will treat it as such below]**, Hohenacker and Chu do not disclose a menu on said studio site lists subject matter and pre-determined main categories and sub-categories.
>
> However, Chacker discloses a menu on a studio site lists subject matter and pre-determined main categories and sub-categories (column 10, lines 30-35).
>
> Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker, Chu, and Chacker in order to create a user friendly interface by making the recorded performances more accessible.
>
> As to claim 50 **[Applicants believe Examiner mistakenly referred to claim 50 and the rejection is to claim 48 and will treat it as such below]**, Hohenacker and Chu do not disclose said site further comprises a ratings means for enabling a viewer to rate said recorded performance wherein further said ratings means prohibits said viewer from rating said recorded performance more than once.
>
> However, Chacker discloses a ratings means for enabling a viewer to rate a recorded performance and preventing said viewer from compromising the ratings (column 7, lines 19-25, viewers trade stocks, effectively rating artists; viewers are giving a finite amount of resources to trade with).
>
> Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker, Chu, and Chacker in order to allow direct user input which can then translate into popularity and marketing potential of prospective artists.

Response:

Regarding claim 48, the cited section of Chacker discloses a ranking that must be checked manually. The claim has been amended to better delineate the intended metes and bounds of the claimed invention. The amendment is supported by paragraphs 65 and 66 of the instant published patent application. In view of the clarification above, Applicants respectfully request the Examiner withdraw the rejection.

Claim 50 has been amended. Support can be found in paragraph 36, which discloses "recordings are categorized based on its subject matter classification." Applicants submit that this is different from a "user data" disclosed by the prior art. In view of the clarification above, Applicants respectfully request the Examiner withdraw the rejection.

Claims 1-6, 8-10, 13, 16, 45, 51-54, and 57-60

The Examiner has rejected claims 1-6, 8-10, 13, 16, 45, 51-54, and 57-60 under 35 USC § 103(a) as being unpatentable over Chu and Hohenacker, in further view of Foroutan.

Claims 1 and 51

The Examiner states:

> As to claim 1, Chu discloses an interactive personal service provider for video communication having a studio (Fig. 1 and column 6, lines 32-37) comprising:
>
> an audio and video recorder to record at least one performance thereby making a recorded performance (column 6, lines 58-61 and column 7, lines 28-31; video camera and microphone record performance;
>
> at least one computer server for storing said recorded performance (column 15, line 66-column 16, line 11) computer stores recorded performance) further comprising:
>
> an audio and video player to preview said recorded performance (column 4, lines 47-56); and
>
> a database to receive input information from a studio user that relates to said recorded performance (column 12, lines 34-48, a studio user inputs various information in order to make selections in regards to their performance).
>
> But, Chu does not disclose the computer server further comprises a communication connection to transmit said recorded performance to a studio server in communication with a streaming server wherein said site enable a plurality of viewers to view said recorded performance from said streaming server.
>
> However, Hohenacker discloses a computer server comprising a communication connection transmitting a recorded performance to a studio server (Abstract and [0040]) in communication with a streaming server wherein said site enable a plurality of viewers to view said recorded performance from said streaming server ([0042], Internet server reads on streaming server).
>
> Therefore it would have been obvious at the time of the invention to combine the teachings of Chu and Hohenacker in order to provide recorded performances to remote locations

whereupon a larger audience will be exposed to a user's performance.

But, neither Chu nor Hohenacker disclose that said recorded performance is automatically categorized into a category on said studio site based on input information provided by the studio user on the streaming server.

However, Foroutan discloses that said that said recorded performance is automatically categorized into a category on said studio site based on input information provided by the studio user on the streaming server (column 30, lines 30-49, an artist submits a song (recorded performance) and inputs information in regards to which genre or category the song belongs and is stored in a database with that information available to be used by reviewers; further the TPICS server is available over a network, see Fig. 2).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Chu and Hohenacker with Fouroutan in order to allow reviewers of recorded performances to view performances in genres or categories they would like to view.

As to claim 51, Chu discloses an apparatus for distributing information to at least one information seeker said apparatus comprising:

a studio booth equipped with an audio and video recording device and located in a publicly accessible location column 6, lines 58-61 and column 7, lines 28-31; video camera and microphone record performance);

an audio and video player to preview said recorded performance(column 4, lines 47-56); and

a studio site having a studio server capable of re-encoding said recorded performance into a different media file connected to the studio booth (column 16, line 26-38) wherein a plurality of studio users can access the studio booth to upload said recorded performance (Abstract, anyone who pays the appropriate fees may use the booth).

But, Chu does not disclose multiple studio booths and a streaming server connected to said studio site to transmit said recorded performance.

However, Hohenacker discloses multiple studio booths ([0001]) a computer server comprising a communication connection transmitting a recorded performance to a studio server (Abstract and [0040]) in communication with a streaming server wherein said site enable a plurality of viewers to view said recorded performance from said streaming server ([0042], Internet server reads on streaming server).

Therefore it would have been obvious at the time of the invention to combine the teachings of Chu and Hohenacker in order to provide recorded performances to remote locations whereupon a larger audience will be exposed to a user's performance.

But, neither Chu nor Hohenacker disclose that said recorded performance is automatically categorized into a category on said studio site.

However, Foroutan discloses that said that said recorded performance is automatically categorized into a category on said studio site based on input information provided by the studio user on the streaming server (column 30, lines 30-49, an artist submits a song (recorded performance) and inputs information in regards to which genre or category the song belongs and is stored in a database with that information available to be used by reviewers; further the TPICS server is available over a network, see Fig. 2).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Chu and Hohenacker with Fouroutan in order to allow reviewers of recorded performances to view performances in genres or categories they would like to view.

Response:

All limitations of the claimed invention must be considered when determining patentability. *In re Lowry*, 32 F.3d 1579, 1582, 32 U.S.P.Q.2d 1031, 1034 (Fed. Cir. 1994). Applicants first note that the claim term "re-encoded" has not been cited in the prior art. Consequently, for at least this reason, Applicants submit that claim 51 and claims dependent thereon are novel and unobvious for at least this reason.

Further, it is improper to combine the references where the references teach away from their combination. MPEP 2145(X)(D)(2); *In re Grasselli*, 713 F.2d 731, 743, 218 USPQ 769,779 (Fed. Cir. 1983). The purpose of Chu is portable media for a "personal" recording – there is no need, desire, or want to provide a recorded performance to a remote location. When considered as a whole, Chu clearly is directed towards a private recording. The title of Chu is "Personalized karaoke recording studio." The background section discusses the desire in the art for people to make recordings of "their performances for their own personal uses." (col. 1, lns. 38-39). Consequently, one having ordinary skill in the art looking at Chu, would not incorporate the very different open-air performance teachings of Hohenacker to arrive at the claimed invention.

Further, the claims have been amended. Support for the amendments to claims 1 and 51 can be found in paragraph 51 of the instant published patent application which discusses recording only a raw voice. Support for the registration center being outside the enclosed studio can be found in paragraphs 40 and 42 and with reference to numeral 220 in Figure 2.

Chu teaches away from the limitation of recording only a raw voice because speakers 46 48 as shown in Figure 1 and discussed at col. 7 lns. 35-40 of Chu are located on the inside of the booth. Moreover, col. 14, lines 38-42 teach that music from these speakers is played so that it is audible to the performer. Such music will undoubtedly be captured by the microphone 44.

Chu further teaches away from the limitation of a registration center on the outside of the booth as evidenced by col. 11, lns. 22-63.

Claims 2 and 57, 3, 4 and 58, and 5

The Examiner states:

> As to claims 2 and 57, Fouroutan discloses a studio operator can query said database said category for criteria specified by an information seeker (column 30, lines 30-49).
>
> As to claim 3, Hohenacker discloses a viewer is restricted from viewing said input information of said studio user on said site ([0093]).
>
> As to claims 4 and 58, Foroutan discloses a viewer purchases said recorded performance from a studio operator (column 16, lines 6-18).
>
> As to claim 5, Hohenacker discloses a professional media kit is produced from said input information and said recorded performance ([0046]).

Response:

Claim 5 has been amended. Support for the amendment to claim 5 can be found in paragraphs 34 and 40 of the instant published patent application. For example, paragraph 34 indicates that "A professional media kit 192 could be produced using recorded images or information input during registration." Paragraph 40 indicates that "Information input during registration could include physical attributes of the art . . ." Paragraph 46 of Hohenacker fails to

teach or suggest the invention as claimed. In view of the above, Applicants respectfully request the Examiner withdraw the rejection.

Claims 6, 8, 9, 10, 13 and 53-54, 16 and 60, 45, 59, and 52

The Examiner states:

> As to claim 6, Foroutan discloses an information seeker can query said input information (column 30, lines 30-49).
>
> As to claim 8, Foroutan discloses said recorded performance is reviewed by a personal coach (column 18, lines 18-32).
>
> As to claim 9, Hohenacker discloses said recorded performance comprises a Karaoke-style performance performed in said studio ([0079]).
>
> As to claim 10, Chu discloses said studio is substantially soundproof (Fig. 1, and column 2, lines 39-48).
>
> As to claims 13 and 53-54, Hohenacker discloses said studio site comprises a website ([0050]).
>
> As to claims 16 and 60, Hohenacker discloses a live video conferencing capability ([0079]).
>
> As to claim 45, Hohenacker and Chu discloses the parent claim 38, but do not explicitly disclose said recorded performance is reviewed by a personal coach.
> However, Foroutan discloses said recorded performance is reviewed by a personal coach (column 18, lines 18-32).
> Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker and Chu with Foroutan in order to allow industry experts to review and provide feedback to aspiring talent so as to improve the overall user experience.
>
> As to claim 59, Hohenacker discloses said recorded performance comprises at least two studio users in at least two separate locations ([0001]).
>
> As to claim 52, it is rejected by the same rationale set forth in claim 1's rejection.

Response:

If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In Re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); MPEP 2143.03. Because the independent claim(s) are nonobvious for reasons discussed above, the dependent claims are necessarily nonobvious. Consequently, Applicants respectfully request the Examiner withdraw the rejection(s).

Claims 7, 12, 14-15, 17-19, and 55-56

The Examiner has rejected claims 7, 12, 14-15, 17-19, and 55-56 under 35 USC § 103(a) as being unpatentable over Chu, Hohenacker, and Foroutan as applied to claims 1 and 51, in further view of Chacker.

Claim 7

The Examiner states:

> As to claim 7, Hohenacker, Chu, and Foroutan do not disclose at least one information seeker bids to enter into contract negotiations with said studio user.
>
> However, Chacker discloses an information seeker bids to enter into contract negotiations with an uploading artist (column 7, lines 8-25).
>
> Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker, Chu, and Foroutan with Chacker in order recruit talent (Chacker, column 4, lines 23-26).

Response:

Regarding claim 7, Applicants submit that it is one thing for an entity to recruit talent and quite another to provide a service to a studio user whereby there is a competitive bid to enter into contract negotiations. Chacker teaches "pre-selecting" artists to enter into an "investment simulation game" to be voted on by the public. The artists are then awarded a contract on the basis of the public's decision rather than the information seeker's decision to place a competitive bid. There is no "bidding" disclosed or taught by Chacker. Rather it's selection by party A to be offered a contract by Party B. The claimed invention requires the same party to make the offer and contract through a competitive bid. In view of the clarification above, Applicants respectfully request the Examiner withdraw the rejection.

Claim 12

The Examiner states:

> As to claim 12, Hohenacker, Chu, and Foroutan do not disclose said studio user electronically contracts with said studio operator for an exclusive agency contract for said recorded performance.
>
> However, Chacker discloses an uploading artist electronically contracts with a studio operator for an exclusive agency contract for an uploaded performance (column 7, lines 8-25).
>
> Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker, Chu, and Foroutan with in order to recruit talent (Chacker, column 4, lines 23-26).

Response:

Claim 12 has been amended to depend upon claim 7. The prior art fails to teach or suggest the limitations of claim 12, as amended. In view of the amendment, Applicants respectfully request the Examiner withdraw the rejection.

Claims 14 and 55

The Examiner states:

> As to claims 14 and 55, Hohenacker, Chu, and Foroutan do not disclose a menu on said studio site lists subject matter and pre-determined main categories and sub-categories.
>
> However, Chacker discloses a menu on a studio site lists subject matter and pre-determined main categories and sub-categories (column 10, lines 30-35).
>
> Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker, Chu, and Foroutan with Chacker in order to create a user friendly interface by making the recorded performances more accessible.

Response:

Regarding claims 14 and 55, Applicants respectfully submit the Examiner is conflating a studio user or performer with an information seeker. Chacker discloses a consuming public selecting a pre-determined category. For example, at column 10, lines 30-35, Chacker discloses:

> The music collection spans dozens of categorized genres, including pop, rock, classical, country, alternative, children's, easy listening, electronic, hip hop, rap, blues, jazz, international. Those music categories are searchable by genre, artists or location.

These are not user-created categories, but "pre-determined" categories. Paragraph 33 of the present invention, on the other hand, teaches:

> Moreover, if a pre-determined sub-category failed to define the subject matter of the recording, the studio user could create a user-defined category 155 and/or sub-category.

Applicants also direct Examiner to Figure 1b of the present invention. Consequently, unlike Chacker the present invention permits a performer to select a category not pre-determined, such as "angel/investors" as a category and something like "oil and gas" as a sub-category. Chacker fails to teach or suggest limitations providing such flexibility. In view of the clarification above, Applicants respectfully request the Examiner withdraw the rejection.

Claims 15, 17 and 56, 18, and 19

The Examiner states:

> As to claim 15, Hohenacker, Chu, and Foroutan do not disclose a menu on said studio site allows user created categories and sub-categories.
>
> However, Chacker discloses a menu on a studio site allows user created categories and sub-categories (column 10, lines 30-35).
>
> Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker, Chu, and Foroutan with Chacker in order to create a user friendly interface by making the recorded performances more accessible.
>
> As to claims 17 and 56, Hohenacker, Chu, and Foroutan do not disclose said site further comprises a ratings means for enabling a viewer to rate said recorded performance wherein further said ratings means prohibits said viewer from rating said recorded performance more than once.
>
> However, Chacker discloses a ratings means for enabling a viewer to rate a recorded performance and preventing said viewer from compromising the ratings (column 7, lines 19-25, viewers

trade stocks, effectively rating artists; viewers are giving a finite amount of resources to trade with).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker, Chu, and Foroutan with Chacker in order to allow direct user input which can then translate into popularity and marketing potential of prospective artists.

As to claim 18, Chacker discloses an information seeker is electronically notified when ratings from one or more viewers exceeds a pre-determined ratings threshold (Chacker, column 13, lines 23-28).

As to claim 19, Chacker discloses a studio operator is electronically notified when ratings from said viewers exceeds a predetermined ratings threshold (Chacker, column 13, lines 23-28).

Response:

If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In Re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); MPEP 2143.03. Because the independent claim(s) are nonobvious for reasons discussed above, the dependent claims are necessarily nonobvious. Consequently, Applicants respectfully request the Examiner withdraw the rejection(s).

Claim 11

The Examiner has rejected claim 11 under 35 USC § 103(a) as being unpatentable over Chu, Hohenacker, Foroutan, as applied to claim 1, in view of what was well known in the art. The Examiner states:

As to claim 11, Hohenacker, Chu, and Foroutan do not disclose said audio and video recorder enables said studio user to transmit only one recording from at least two performances recorded by said studio user in said studio.

However, allowing a user to make multiple recordings and uploading only one of those recording to a remote site would have been an obvious modification to one of ordinary skill in the art given the teachings of Chu, which allows for previews. Specifically, it is a common practice in the art to review, and if necessary rerecord poor performances, and only utilize one of the recordings. Therefore, Official Notice (see MPEP 2144.03) is

taken that practice was well known in the art and is implemented in order allow the user to make errors and correct those errors.

Response:

Claim 11 has been amended. Support for the amendment to claim 11 can be found in paragraphs 42 and 51 of the instantly published patent application. There is no "re-recording" in the claim as amended; consequently, Applicants believe the claim to be unobvious as amended.

CONCLUSION

It is respectfully urged that the subject application is patentable over the references cited by Examiner and is now in condition for allowance. Applicants request consideration of the application and allowance of the claims. If there are any outstanding issues that the Examiner feels may be resolved by way of a telephone conference, the Examiner is cordially invited to contact Vincent Allen or Chad E. Walter at 972-367-2001.

The Commissioner is hereby authorized to charge any additional payments that may be due for additional claims to Deposit Account 50-0392.

Respectfully submitted,

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